

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

CLARENCE DODSON,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD73680

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 24, 2012

APPEAL FROM

The Circuit Court of Boone County, Missouri
The Honorable Kevin M.J. Crane, Judge

JUDGES

Division Two: Howard, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Matthew Ward, Assistant Public Defender
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General
John M. Reeves, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

CLARENCE DODSON,)
)
Appellant,)
v.) **OPINION FILED:**
) **April 24, 2012**
STATE OF MISSOURI,)
)
Respondent.)

WD73680

Boone County

Before Division Two Judges: Victor C. Howard, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Clarence Dodson appeals the denial of his Rule 24.035 motion for post-conviction relief, seeking to vacate his conviction of felony non-support. Dodson argues that his plea was involuntary because the court failed to comply with Rule 24.02 by failing to inform him that if he did not receive probation, he would not be allowed to withdraw his guilty plea. We agree with Dodson and reverse and remand.

REVERSED AND REMANDED.

Division Two holds:

The prosecutor's agreement to defer to the plea court regarding whether Dodson would receive probation brought the plea agreement within the parameters of Rule 24.02(d)1(B), as it was an agreement "not to oppose a defendant's request for a particular disposition." Thus, the plea court was required by Rule 24.02(d)2 to advise Dodson that he would be unable to withdraw his plea in the event the court denied his request for probation. Because the court failed to so advise Dodson, his plea was involuntary. The motion court erred in denying Dodson's claim, and its decision is reversed and the cause remanded for further proceedings consistent with this opinion.

Opinion by: Karen King Mitchell, Judge

April 24, 2012

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